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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/634,406

08/04/2003

Amir Lehr

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EXAMINER

TRAN, VINCENT HUY

ART UNIT

PAPER NUMBER

2115

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/634,406	Applicant(s) LEHR ET AL.	
	Examiner Vincent T. Tran	Art Unit 2115	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 110-132 is/are pending in the application.
- 4a) Of the above claim(s) 110-129 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 130-132 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :7/31/05, 4/18/05, 8/01/04, 7/25/04, 5/12/04, 10/14/03.

DETAILED ACTION

1. This Office Action is responsive to the communication filed on 2/24/2005
2. Claims 110-132 are pending for examination.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 7/31/05, 4/18/05, 8/01/04, 7/25/04, 5/12/04 were considered by the examiner.
4. 10/14/03 were not considered by the examiner – serial # not match with application.

Election/Restrictions

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 110-129, drawn to *The conservation of backup power by selectively turning power off to only a portion of the system*, classified in class 713, subclass 324.
 - II. Claims 130-132, drawn to Data Protection, classified in class 713, subclass 340.
6. Inventions of group I and group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination [I] has separate utility such as prolonging the life of the backup battery by selectively turning power off to a portion of the system during the duration of main power outages. In the instant case, subcombination [II] has separate utility

such as maintaining the data stored in the volatile memory system in an on-line state during the duration of main power outages. In the See MPEP § 806.05(d).

Because these inventions are distinct for the reason given above and the search required for group I is not for group II.

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

6. During a telephone conversation with Mr. Simon Kahn on March 15, 2007 a provisional election was made without traverse to prosecute the invention of group II, claims 130-132. Affirmation of this election must be made by applicant in replying to this Office action. Claim 110-129 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 130-132 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. No where in the discloser teaches that the power source receiving via communication cabling supplying power to the memory in the event that the mains power is not provided.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 130-132 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horning U.S. Patent No. 5,414,861 in view of Bouffard et al. U.S. Patent No. 5,939,801 ("Bouffard").

11. As per claim 130, Horning teaches a computer for use in local area network the computer comprising:

a memory [16 fig. 1];

a main power source [32 fig. 1];

a power source [34 fig. 1]; and

a controller [38 fig. 1] receiving a control input from the mains power source indicative of mains power availability [col. 6 lines 20-33];

the controller being operative responsive to the control input indicating that the mains power is not available to supply power to the memory from the power source [from col. 6 line 61 to col. 7 line 3].

Horning fails to teach a power source receiving power via communication cabling.

The system of Horning is inefficient since it relied on a battery to provide backup power to the memory; as such, during the duration of main power outages, the system continuously monitors the status of the backup power supply and, if the backup power supply is discharged to the point where there is only enough energy to accomplish the data transfer task, the system will automatically initiate the data transfer from a volatile memory to a non-volatile memory to ensure complete data integrity.

Bouffard teaches another method directed to the distribution of power to a plurality of remote powered devices via a communication cable [col. 26-37]. Specifically, Bouffard teaches system operable to supply redundant low-level electrical power to a plurality of remote local area network (LAN) devices [col. 2 lines 43-47] wherein the system automatically switched to the auxiliary power supply [32 fig. 1] or supplies in the event of failure of the primary supplies [col. 5 lines 9-16].

At the time of the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the system of Horning with the backup power provided via the communication cable of Bouffard.

The motivation for doing so would have been to provide an uninterrupted backup power source to a remote device that eliminated the requirement for separate and cumbersome battery backup supplier which tends to has a short operating cycle.

12. As per claim 131-132, it is noted that the limitation of claims 131-132 is the same as of claim 130. As demonstrated previously, the combination of Horning and Bouffard anticipated the limitation in claim 130.

Conclusion

Examiner's note:

Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Prior Art not relied upon:


Please refer to the references listed in attached PTO-892, which, are not relied upon for claim rejection since these references are relevant to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vincent T. Tran whose telephone number is (571) 272-7210. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas c. Lee can be reached on (571)272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vincent Tran

A handwritten signature in black ink, consisting of a large, stylized 'V' followed by a horizontal line.